

SENATE BILL No. 456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-1.1-11.5; IC 4-13.6-6-2.7; IC 5-22; IC 8-10-1-7.7; IC 8-23-9-4.7; IC 20-12-78; IC 24-4.5-8.

Synopsis: Outsourcing relief. Requires approval by the legislative council of state contracts that: (1) result in outsourced employees; and (2) total at least \$10 million. Provides that a contract entered into by a state agency may not be for a period of more than four years unless a statute specifically provides otherwise. Requires a state agency to award contracts to Indiana businesses unless the Indiana business: (1) is not the lowest bidder; or (2) cannot perform the contract. Requires a person that bids on a state contract to disclose certain information concerning outsourced workers to the Indiana department of administration. Requires a financial institution to defer principal payments for up to 12 months on a mortgage or vehicle loan held by an outsourced employee of the state or a state educational institution. Requires the state student assistance commission to administer a program of low interest loans to outsourced employees or dependents of outsourced employees who are full-time students at a state educational institution to pay tuition and regularly assessed fees.

Effective: July 1, 2007.

Simpson

January 16, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 456

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-1.1-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11.5. A contract that satisfies the following conditions must be approved by the legislative council:**

(1) The contract is entered into by:

(A) a state agency (as defined in IC 4-13-1-1);

(B) a state educational institution (as defined in IC 20-12-0.5-1);

(C) the Indiana department of transportation established by IC 8-23-2-1; or

(D) the Indiana port commission established under IC 8-10-1.

(2) The contract:

(A) requires a nongovernmental entity to perform certain state functions, including any function of an entity listed in subdivision (1); and

(B) results in the termination from employment of an

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employee in a particular departmental, occupational, or other definable classification.

(3) The total value of the supplies or services that are the subject of the contract is at least ten million dollars (\$10,000,000).

SECTION 2. IC 4-13.6-6-2.7, AS AMENDED BY P.L.4-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.7. (a) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

~~(4) A business that makes significant capital investments in Indiana.~~

~~(5) A business that has a substantial positive economic impact on Indiana.~~

(b) For purposes of this section, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

~~(b)~~ **(c)** The department shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (a). The department may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(c) There are the following price preferences for a contractor that is an Indiana business:

(1) Five percent (5%) for a contract expected by the division to be less than five hundred thousand dollars (\$500,000):

(2) Three percent (3%) for a contract expected by the division to be at least five hundred thousand dollars (\$500,000) but less than one million dollars (\$1,000,000):

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(3) One percent (1%) for a contract expected by the division to be at least one million dollars (\$1,000,000).

(d) The division shall compute a preference under this section in the same manner that a preference is computed under IC 5-22-15. (e) Notwithstanding subsection (c);

(d) The division shall award a contract to the lowest responsive and responsible contractor; regardless of the preference provided in this section; if: (1) the contractor is an Indiana contractor or (2) the contractor is a contractor from a state bordering Indiana and the contractor's home state does not provide a preference to the home state's contractors more favorable than is provided by Indiana law to Indiana contractors: **business unless the Indiana business:**

(1) is not the lowest responsive and responsible contractor; or

(2) is otherwise unable to perform the contract.

(f) (e) A contractor that wants to claim a preference provided under this section **submits a bid** must do all of the following: (1) State in the contractor's bid that the contractor claims the preference provided by this section; (2) provide the following information to the department:

(A) (1) The location of the contractor's principal place of business, **if the contractor claims the preference as an Indiana business described in subsection (a)(1); including** a statement explaining the reasons the contractor considers the location named as the contractor's principal place of business.

(B) (2) The amount of the contractor's total payroll and the amount of the contractor's payroll paid to Indiana residents.

(C) (3) The number of the contractor's employees, **and including** the number of the contractor's employees who are:

(A) Indiana residents; or

(B) outsourced employees.

(4) The percentage of the total bid price and the dollar amount to be paid for services performed by individuals:

(A) outside Indiana but inside the United States; or

(B) outside the United States.

(5) The number of outsourced workers that the contractor would hire to perform services under the contract and the salaries or wages that the contractor would pay to the outsourced workers.

(D) If the contractor claims the preference as an Indiana business described in subsection (a)(4); a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the contractor claims the preference as an Indiana

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business described in subsection (a)(5); a description of the substantial positive economic impact the contractor has on Indiana.

(g) This section expires July 1, 2009.

SECTION 3. IC 5-22-6-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3. (a) This section applies only to a contract for services awarded by:**

(1) a state agency; or

(2) a state educational institution.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(c) For purposes of this section, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

(d) The Indiana department of administration shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (b). The Indiana department of administration may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(e) A state agency shall award a contract to an Indiana business unless the Indiana business:

(1) is not the lowest responsive and responsible offeror; or

(2) is otherwise unable to perform the contract.

(f) A business that submits a bid for a contract must provide the following information to the Indiana department of administration:

(1) The location of the business's principal place of business,

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including a statement explaining the reasons the business considers the location named as the business's principal place of business.

(2) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(3) The number of the business's employees, including the number of the business's employees who are:

(A) Indiana residents; or

(B) outsourced employees.

(4) The percentage of the total bid price and the dollar amount to be paid for services performed by individuals:

(A) outside Indiana but inside the United States; or

(B) outside the United States.

(5) The number of outsourced workers that the contractor would hire to perform services under the contract and the salaries or wages that the contractor would pay to the outsourced workers.

SECTION 4. IC 5-22-15-20.5, AS AMENDED BY P.L.4-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

~~(4) A business that makes significant capital investments in Indiana.~~

~~(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).~~

(c) For purposes of this section, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

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~~(c)~~ **(d)** The Indiana department of administration shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (b). The Indiana department of administration may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

~~(d)~~ There are the following price preferences for supplies purchased from an Indiana business:

~~(1)~~ Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars (\$500,000):

~~(2)~~ Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars (\$500,000) but less than one million dollars (\$1,000,000):

~~(3)~~ One percent (1%) for a purchase expected by the state agency to be at least one million dollars (\$1,000,000):

~~(e)~~ Notwithstanding subsection ~~(d)~~; A state agency shall award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if: ~~(1)~~ the offeror is an Indiana business or ~~(2)~~ the offeror is a business from a state bordering Indiana and the business's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses: **unless the Indiana business:**

(1) is not the lowest responsive and responsible offeror; or

(2) is otherwise unable to perform the contract.

~~(f)~~ A business that wants to claim a preference provided under this section must do all of the following: ~~(1)~~ State in the business's submits a bid that the business claims the preference provided by this section: ~~(2)~~ **for a contract with a state agency must** provide the following information to the **Indiana department of administration:**

~~(A)~~ **(1)** The location of the business's principal place of business, ~~if the business claims the preference as an Indiana business described in subsection (b)(1); including~~ a statement explaining the reasons the business considers the location named as the business's principal place of business.

~~(B)~~ **(2)** The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

~~(C)~~ **(3)** The number of the business's employees and the number of the business's employees who are:

(A) Indiana residents; or

(B) outsourced employees.

(4) The percentage of the total bid price and the dollar

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amount to be paid for services performed by individuals:

(A) outside Indiana but inside the United States; or

(B) outside the United States.

(5) The number of outsourced workers that the contractor would hire to perform services under the contract and the salaries or wages that the contractor would pay to the outsourced workers.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

(g) This section expires July 1, 2009.

SECTION 5. IC 5-22-17-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) This section applies only to a contract entered into by:

(1) a state agency;

(2) the Indiana department of transportation established under IC 8-23-2-1; or

(3) the Indiana port commission established under IC 8-10-1.

(b) An entity listed in subsection (a) may not enter into a contract for a period of more than four (4) years unless a statute specifically provides otherwise.

SECTION 6. IC 5-22-17-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) This section applies to a contract entered into by:

(1) a state agency;

(2) the Indiana department of transportation established under IC 8-23-2-1; or

(3) the Indiana port commission established under IC 8-10-1; for the performance by a nongovernmental entity of any state function.

(b) To the extent permitted by federal law, a contract must provide that a state employee who is moved or transferred to a nongovernmental entity retains for all purposes, after the move or transfer, the years of service and seniority earned as a state employee.

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SECTION 7. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.7. (a) For purposes of this section, "Indiana business" refers to any of the following:**

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(b) For purposes of this section, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

(c) The commission shall consult with the Indiana department of administration and the Indiana economic development corporation to:

(1) develop criteria for determining whether a business is an Indiana business under subsection (a); and

(2) determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) When entering into a contract under this chapter, the commission shall award a contract to an Indiana business unless the Indiana business:

(1) is not the lowest responsive and responsible offeror; or

(2) is otherwise unable to perform the contract.

(e) A business that submits a bid for a contract must provide the following information to the commission and the Indiana department of administration:

(1) The location of the business's principal place of business, including a statement explaining the reasons the business considers the location named as the business's principal place of business.

(2) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(3) The number of the business's employees, including the

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number of the business's employees who are:

(A) Indiana residents; or

(B) outsourced employees.

(4) The percentage of the total bid price and the dollar amount to be paid for services performed by individuals:

(A) outside Indiana but inside the United States; or

(B) outside the United States.

(5) The number of outsourced workers that the contractor would hire to perform services under the contract and the salaries or wages that the contractor would pay to the outsourced workers.

SECTION 8. IC 8-23-9-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.7. (a) For purposes of this section, "Indiana business" refers to any of the following:**

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(b) For purposes of this section, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

(c) The Indiana department of transportation shall consult with the Indiana department of administration and the Indiana economic development corporation to:

(1) develop criteria for determining whether a business is an Indiana business under subsection (a); and

(2) determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) When entering into a contract under this chapter, the Indiana department of transportation shall award a contract to an Indiana business unless the Indiana business:

(1) is not the lowest responsive and responsible offeror; or

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(2) is otherwise unable to perform the contract.

(e) A business that submits a bid for a contract must provide the following information to the Indiana department of transportation and the Indiana department of administration:

(1) The location of the business's principal place of business, including a statement explaining the reasons the business considers the location named as the business's principal place of business.

(2) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(3) The number of the business's employees, including the number of the business's employees who are:

(A) Indiana residents; or

(B) outsourced employees.

(4) The percentage of the total bid price and the dollar amount to be paid for services performed by individuals:

(A) outside Indiana but inside the United States; or

(B) outside the United States.

(5) The number of outsourced workers that the contractor would hire to perform services under the contract and the salaries or wages that the contractor would pay to the outsourced workers.

SECTION 9. IC 20-12-78 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 78. Emergency Tuition Assistance Program for Outsourced Employees of the State or State Educational Institutions

Sec. 1. As used in this chapter, "academic year" means the period starting on August 1 of a calendar year and ending on July 31 of the succeeding calendar year.

Sec. 2. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 3. As used in this chapter, "eligible student" means an individual who:

(1) is:

(A) an outsourced employee; or

(B) the child of an outsourced employee;

(2) is eligible to pay the resident tuition rate at the state educational institution the person will attend, as determined by the institution; and

(3) possesses the requisite academic qualifications to attend

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the state educational institution, as determined by the institution.

Sec. 4. As used in this chapter, "full-time student" means a student who is enrolled in:

(1) at least twelve (12) credit hours in an academic semester; or

(2) the minimum number of hours, if less than twelve (12) hours, a student must be enrolled to be considered a full-time student by the state educational institution that the student attends.

Sec. 5. As used in this chapter, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

(1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

Sec. 6. As used in this chapter, "program" refers to the emergency assistance tuition program established by this chapter.

Sec. 7. (a) A program is established to provide low interest loans from the state general fund to eligible full-time students at state educational institutions.

(b) The commission shall administer the program.

(c) The expenses of administering the program shall be paid from the state general fund.

Sec. 8. The commission may adopt rules under IC 4-22-2 to implement and administer this chapter. The rules adopted must include:

(1) the guidelines for making a loan under this chapter; and

(2) the process by which the loan interest rate is determined.

Sec. 9. The amount of a loan made under section 7 of this chapter may not exceed the tuition and other regularly assessed fees incurred by an eligible student during the academic year in which the eligible student receives a loan under this chapter as determined by the commission.

Sec. 10. Repayment of a loan made under section 7 of this chapter must begin not later than six (6) months after the earlier of:

(1) the date an eligible student completes the degree program for which the loan was made; or

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(2) the date an eligible student is no longer enrolled in a state educational institution as a full-time student.

SECTION 10. IC 24-4.5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 8. Loan Protection for Outsourced Employees of the State or State Educational Institutions

Sec. 101. This chapter applies to an individual who is an employee of:

- (1) the state; or
- (2) a state educational institution;

who is an outsourced employee.

Sec. 102. As used in this chapter, "eligible loan" means a loan secured by:

- (1) a mortgage or other interest in an individual's principal residence; or
- (2) a lien, security interest, or other interest in an individual's primary vehicle.

Sec. 103. As used in this chapter, "financial institution" has the meaning set forth in IC 28-1-1-3.

Sec. 104. As used in this chapter, "outsourced employee" means an employee in a particular departmental, occupational, or other definable classification who is terminated from employment as the result of:

- (1) a lease or other transfer of state or state educational institution property to a nongovernmental entity; or
- (2) a contractual arrangement with a nongovernmental entity to perform certain state or state educational institution functions.

Sec. 105. As used in this chapter, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 201. Notwithstanding any other law, upon receipt of a written request from an individual who is an outsourced employee, a financial institution shall allow the individual to:

- (1) defer payment of principal; and
- (2) make payments of interest only;

for any eligible loan made or serviced by the financial institution.

Sec. 202. After an individual makes a request described in section 201 of this chapter for an eligible loan, the financial institution may not:

- (1) declare the loan in default;
- (2) charge additional interest for failure to pay the loan

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1 principal; or

2 (3) assess a penalty.

3 **Sec. 203. An individual who makes a written request under**
 4 **section 201 of this chapter is entitled to make payments of interest**
 5 **only for an eligible loan until the earliest of the following:**

6 (1) The date the individual obtains employment comparable
 7 to the individual's employment at termination from the state
 8 or state educational institution.

9 (2) The date twelve (12) months after the date the individual
 10 makes the request described in section 201 of this chapter.

11 **SECTION 11. [EFFECTIVE JULY 1, 2007] (a) IC 2-5-1.1-11.5,**
 12 **IC 5-22-17-3.5, and IC 5-22-17-15, all as added by this act, apply to**
 13 **contracts entered into after June 30, 2007.**

14 (b) IC 5-22-6-3, as added by this act, and IC 4-13.6-6-2.7 and
 15 IC 5-22-15-20.5, both as amended by this act, apply to contracts for
 16 which bids are submitted after June 30, 2007.

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